

REMARKS

In the April 19, 2007 Office Action, claims 9-20 and 22-26 stand rejected in view of prior art, while claims 1-8 were indicated as containing allowable subject matter. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response to the April 19, 2007 Office Action, Applicants have amended independent claims 9, 14 and 20 and dependent claim 10 as indicated above. Applicants wish to thank the Examiner for the indication of allowable subject matter and the thorough examination of this application. Thus, claims 1-20 and 22-26 are pending, with claims 1, 9, 14 and 20 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

Interview Summary

On June 26, 2007, the undersigned conducted a personal interview with Examiner Weeks, who is in charge of the above-identified patent application. Applicants wish to thank Examiner Weeks for the opportunity to discuss the above-identified patent application during the Interview of June 26, 2007.

During the interview, the undersigned presented the arguments as follows.

Regarding independent claim 9, this claim requires control means for controlling the predetermined quantity of the flavoring supplied by the flavoring apparatus based on the quantity of the flavored articles as measured by the check measurer and the quantity of the articles as measured by the measurer. Applicants believe neither U.S. Patent No. 5,361,560 to Sandolo (hereinafter "Sandolo '560 patent") nor U.S. Patent No. 5,832,700 to Kammler et

al. (hereinafter "Kammler et al. patent") discloses or suggests *controlling of the quantity of the flavoring* as recited in independent claim 9.

Regarding independent claims 14 and 20, these claims require adjusting the quantity of additive supplied by the additive dispenser such that the combined weight of the package and the mixture meets a predetermined requirement. Applicants believe neither U.S. Patent No. 5,690,283 to Sandolo (hereinafter "Sandolo '283 patent") nor the Kammler et al. patent discloses or suggests *adjusting the quantity of additive* as recited in independent claims 14 and 20.

In response, Examiner Weeks indicated that claim 9 would be allowable if this claim is amended to clarify that the control recited in this claim is performed based on the calculation by the control means rather than the manual structure as disclosed by the Sandolo '560 patent. Regarding claims 14 and 20, Examiner Weeks indicated that further amendments would be required to distinguish the present invention recited in these claims over the prior art of record.

Accordingly, no agreement was reached during the interview of June 26, 2007.

Allowable Subject Matter

In the numbered paragraph 1 of the Office Action, claims 1-8 were indicated as allowed. Applicants wish to thank the Examiner for this indication of allowable subject matter and the thorough examination of this application.

In the numbered paragraph 2 of the Office Action, the allowability of claims 11, 15-18, 21 and 23, which was indicated in the September 12, 2006 Office Action, was withdrawn in view of the newly discovered references.

Rejections - 35 U.S.C. § 103

In the numbered paragraphs 3 to 8 of the Office Action, claims 9-20 and 22-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the prior art of record. More specifically, claims 9-12 stand rejected as being obvious over the Sandolo '560 patent in view of the Kammler et al. patent. Claim 13 stands rejected as being obvious over the Sandolo '560 patent in view of the Kammler et al. patent, and further in view of U.S. Patent No. 3,655,397 to Parliament et al. (hereinafter "Parliament et al. patent"). Claims 14-18, 20, 22-24 and 26 stand rejected as being obvious over the Sandolo '283 patent in view of the Kammler et al. patent. Claim 19 stands rejected as being obvious over the Sandolo '283 patent in view of the Kammler et al. patent, and further in view of U.S. Patent No. 6,119,438 to Bacon et al. (hereinafter "Bacon et al. patent"). Claim 25 stands rejected as being obvious over the Sandolo '283 patent in view of the Kammler et al. patent, and further in view of U.S. Patent No. 6,953,004 to Dove et al. (hereinafter "Dove et al. patent"). In response, Applicants have amended independent claims 9, 14 and 20 as mentioned above.

Independent Claim 9

Regarding independent claim 9, this claim now requires control means for controlling the predetermined quantity of the flavoring supplied by said flavoring apparatus according to a value indicative of a difference between the predetermined quantity of the flavoring and a quantity of the flavoring actually added to the articles, and the value indicative of the difference is *calculated* using the *quantity of the flavored articles* as measured by said check measurer and the *quantity of the articles* as measured by said measurer. This arrangement is *not* disclosed or suggested by the Sandolo '560 patent, the Kammler et al. patent or any other prior art of record, whether taken singularly or in combination.

The Sandolo '560 patent merely discloses that the solenoid valve 25 is provided to regulate the amount of flavoring material to be delivered (please see column 2, lines 67 and 68 of the Sandolo '560 patent). The Kammler et al. patent merely discloses changing the mass of the dosed production portion based on the measured values of the scale 17 (please see the abstract of the Kammler et al. patent). Both of the Sandolo '560 patent and the Kammler et al. patent are *silent* about a measurer for measuring a quantity of articles (that is disposed *upstream* of the flavoring apparatus and the check measurer) as recited in independent claim 9. Thus, the Sandolo '560 patent and the Kammler et al. patent, whether taken singularly or in combination, *fail* to disclose or suggest control means for *controlling the predetermined quantity of the flavoring* supplied by said flavoring apparatus according to a value indicative of a difference between the predetermined quantity of the flavoring and a quantity of the flavoring actually added to the articles with the value indicative of the difference being *calculated* using the *quantity of the flavored articles* as measured by said check measurer and the *quantity of the articles* as measured by said measurer as now recited in independent claim 9.

Moreover, the other prior art of record, namely, the Parliament et al. patent, the Bacon et al. patent and the Dove et al. patent also *fail* to provide for the deficiencies of the Sandolo '560 patent and the Kammler et al. patent with respect to the limitations recited in independent claim 9.

It is well settled in U.S. patent law that the mere fact that the prior art can be modified does *not* make the modification obvious, unless the prior art provides an *apparent reason* for the desirability of the modification. Accordingly, the prior art of record lacks any apparent reason, suggestion or expectation of success for combining the patents to create the Applicants' unique arrangement of the weighing and flavoring system as now recited in

independent claim 9. Therefore, Applicants believe independent claim 9 is allowable over the prior art of record.

Independent Claims 14 and 20

Regarding independent claims 14 and 20, these claims now require the quantity of additive supplied *in a subsequent control cycle* be adjusted in response to the combined weight of the package and the mixture monitored *in a current control cycle* such that the combined weight of the package and the mixture *in the subsequent control cycle meets predetermined requirements*. In other words, with the apparatus or method for packaging articles as recited in claim 14 or 20, the *feedback control* of the quantity of the additive supplied the articles is performed based on the combined weight of the package and the mixture of the articles and the additive. Applicants believe the limitations now recited in independent claims 14 and 20 are *not* rendered obvious over the Sandolo '283 patent, the Kammler et al. patent or any other prior art of record, whether taken singularly or in combination, for the following reasons.

First, Applicants believe one of ordinary skilled in the art would *not* consider it obvious to combine the teachings of the Sandolo '283 patent and the Kammler et al. patent to perform a *feedback control* of the quantity of additive as now recited in independent claims 14 and 20.

The Sandolo '283 patent is specifically directed to a coffee blending and flavoring apparatus for automatically *custom blending different types of coffee beans* with or without added flavoring to an *individual's personalized* blend and/or flavor (please see the abstract of the Sandolo '283 patent). The coffee blending and flavoring apparatus of the Sandolo '283 patent is provided so that the *individual customer* may formulate his or her own *customized* blend selected from several different coffees *at the point of purchase* and having the option

to flavor the custom blend with a suitable flavor (column 1, lines 43 to 46 of the Sandolo '283 patent). Thus, the flavor ingredient is added with the coffee beans according to the each customer's own preference in the Sandolo '283 patent. In other words, in the coffee blending and flavoring apparatus of the Sandolo '283 patent, there is no need to perform a feedback control of the quantity of the flavor supplied to the coffee since the purpose of the coffee blending and flavoring apparatus is to customize the blending of the coffee beans and the flavor for each individual package.

On the other hand, the vertical tubular bagging machine disclosed in the Kammler et al. patent is *completely different* from the coffee blending and flavoring apparatus of the Sandolo '283 patent in that the vertical tubular bagging machine disclosed in the Kammler et al. patent is apparently directed to be used to *mass-produce* the packages of articles. More specifically, the Kammler et al. patent is directed to improve the packaging speed and the dosing exactness so that the small dosing masses of flowable products can be exactly dispensed with high precision (please see column 1, lines 46 to 49 of the Kammler et al. patent).

Therefore, one of ordinary skilled in the art would *not* recognize it obvious to modify the coffee blending and flavoring apparatus of the Sandolo '283 patent in view of the Kammler et al. patent to perform the feedback control as now recited in independent claims 14 and 20.

Moreover, assuming for the sake of argument that the Sandolo '283 patent and the Kammler et al. patent were combinable as asserted by the Office Action, which is not true, the hypothetical combination of the references would still *fail* to disclose or suggest the arrangement of the apparatus or method for packaging articles as now recited in independent claim 14 or 20. More specifically, *neither* the Sandolo '283 patent *nor* the Kammler et al.

patent discloses or suggests an idea of *adjusting the quantity of flavor* in response to the combined weight of the package and the mixture. Accordingly, the hypothetical combination of the Sandolo '283 patent and the Kammler et al. patent would still fail to disclose or suggest the quantity of additive supplied in a subsequent control cycle be *adjusted in response to the combined weight of the package and the mixture* monitored in a current control cycle such that the combined weight of the package and the mixture in the subsequent control cycle meets predetermined requirements as now recited in independent claims 14 and 20.

Furthermore, the other prior art of record, namely, the Parliament et al. patent, the Bacon et al. patent and the Dove et al. patent also *fail* to provide for the deficiencies of the Sandolo '283 patent and the Kammler et al. patent with respect to the limitations recited in independent claims 14 and 20.

As mentioned above, the mere fact that the prior art can be modified does *not* make the modification obvious, unless the prior art provides an *apparent reason* for the desirability of the modification. Accordingly, the prior art of record lacks any apparent reason, suggestion or expectation of success for combining the patents to create the Applicants' unique arrangement of the apparatus or method for packaging articles as now recited in independent claim 14 or 20. Therefore, Applicants believe independent claims 14 and 20 are allowable over the prior art of record.

Dependent Claims 10-13, 15-19 and 22-26

Applicants believe that dependent claims 10-13, 15-19 and 22-26 are also allowable over the prior art of record in that they depend from independent claim 9, 14 or 20, and therefore are allowable for the reasons stated above. Also, the dependent claims 10-13, 15-19 and 22-26 are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not disclose or suggest the invention as set forth

Appl. No. 10/724,114
Amendment dated July 18, 2007
Reply to Office Action of April 19, 2007

in independent claims 9, 14 and 20, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

Therefore, Applicants respectfully request that the rejections be withdrawn in view of the above comments and amendments.

Prior Art Citation

In the Office Action, an additional prior art reference was made of record. Applicants believe that this reference does not render the claimed invention obvious.

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In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1-20 and 22-26 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,



Nomugi Tomoyori
Reg. No. 59,784

GLOBAL IP COUNSELORS, LLP
1233 Twentieth Street, NW, Suite 700
Washington, DC 20036
(202)-293-0444
Dated: 7/18/07

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